



Independent Pricing and Regulatory Tribunal
New South Wales

Electricity networks reporting manual – Employment guarantees



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Amendment record

Issue	Date issued	Amendments made
Employment Guarantees section of Reporting Manual	8 February 2016	First release of Final Reporting Manual – Employment Guarantees section.
ENRM - original	10 June 2016	First release of final Reporting Manual.
ENRM v2	September 2016	Amendments to Annexure 3. Various further amendments unrelated to employment guarantees reporting.
ENRM v3	November 2016	Inclusion of Ms Catherine Jones as a Committee member. Various further amendments unrelated to employment guarantees reporting.
ENRM v3	December 2016	Various amendments unrelated to employment guarantees reporting.
ENRM v4	May 2017	Addition of Ms Deborah Cope as a Committee member, replacing Ms Catherine Jones. Addition to section 6.2.2 on application of cl 20(1) of the ENAAT Act. 2014. Various further amendments unrelated to employment guarantees reporting.
ENRM – employment guarantees reporting - draft	October 2017	Separate Reporting Manuals published. Inserting Chapter 1 -The purpose and status of this reporting manual. Minor wording changes to improve clarity.



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1 The purpose and status of this reporting manual

This Reporting Manual and other Reporting Manuals are issued by IPART. IPART will review and amend these Reporting Manuals from time to time.

Licence conditions for the licensed Electricity Network Operators (ENOs) require that the licence holder complies with any Reporting Manuals issued by the Tribunal.¹ Although no regulatory requirement to comply with a Reporting Manual exists for non-licensed ENOs, IPART expects that all ENOs will comply with the Reporting Manuals where applicable to their specific reporting obligations. Each document may not apply to all ENOs, and this is specified where relevant.

The reporting requirements specified in these Reporting Manuals do not replace any requirements identified in licence conditions, legislation, statutory instruments or codes that apply to ENOs. Compliance with Reporting Manuals is required in addition to, not in substitution for, compliance with other applicable obligations.

The information gathered through the reporting arrangements outlined in this document will allow IPART to:

- ▼ determine whether ENOs are consistently and effectively meeting statutory obligations
- ▼ identify immediate risks and long term trends, and
- ▼ ensure the maintenance of employment conditions for employees of the leased network operators.

A review of the reporting requirements will be conducted periodically to accommodate any changes to statutory requirements and licence conditions.

IPART has also issued Audit Guidelines to guide networks on how to maintain compliance with their obligations.

¹ *Schedule listing ministerially imposed licence conditions for distribution network service providers*, licence condition 7; the *Transmission Operator's Licence under the Electricity Supply Act 1995 (NSW)*, issued by the Minister for Industry, Resources and Energy, 7 December 2015, condition 11, p 7; the *Schedule of Ministerially imposed licence conditions for the operator of a transacted distribution system* issued to the Ausgrid Operator partnership on 1 December 2016, condition 14; and the *Schedule of Ministerially imposed licence conditions for the operator of a transacted distribution system* issued to the Endeavour Energy Operator partnership on 7 June 2017, condition 14.

2 Employment guarantees reporting

This reporting manual provides reporting requirements relating to Employment Guarantees provided in Schedule 4 (the Schedule) of the *Electricity Network Assets (Authorised Transactions) Act 2015* (NSW).

The Schedule provides a five year Employment Guarantee period lasting from 1 July 2015 to 30 June 2020. It sets out provisions relating to minimum employee numbers and some conditions of employment such as restrictions on changes to workplace locations and, for continuing employees,² protections for current employment conditions.

Reporting requirements for this chapter apply to:

- ▼ Ausgrid
- ▼ Endeavour Energy, and
- ▼ TransGrid.

This reporting manual should be read in conjunction with IPART's *Reporting Manual – Reporting Calendar and Purpose Statement, October*.

2.1 Timing and lodgement

We require network operators to report on compliance for each quarter of the financial year, and to submit that report to IPART within one month of the end of the quarter.

A pro-forma report is provided as Appendix B which can be filled in as needed. Unless otherwise stated, reports should be lodged electronically via energy@ipart.nsw.gov.au, and addressed to Director, Energy Networks Regulation.

2.2 Employee numbers

The following sections describe the data to be reported to IPART, and provide guidance on how IPART defines some terms in the Schedule.

2.2.1 Minimum number of employees

Clause 3 of the Schedule includes an 'appropriate staffing level' for each network operator, measured as a minimum number of full time equivalent employees during the Employment Guarantee period.

Further, the Schedule allocates a 'guaranteed apprenticeship intake' to each ANO.³ These apprenticeship intakes are required during a financial year, when, in the final quarter of the

² *Continuing employee* is defined in cl 23 of the Schedule.

³ The Schedule, cl 15(2).

previous financial year, the number of full time equivalent employees is less than or equal to 110% of the appropriate staffing level of the operator.⁴

Table 2.1 outlines the reporting obligations related to clauses 3 and 15 of the Schedule. See below for definitions of some terms used in the Schedule.

Table 2.1 Quarterly data reporting requirements for full time equivalent employees

Code	Name	Description
EG1	Full time equivalent employees ^a	The number of full time equivalent employees is calculated as $F+A/B^c$.
EG2	F - the average number of <i>full time employees of the network operator</i> during the relevant period ^b	The average number of <i>full time employees</i> in the relevant 3-month period. Provide data under the following headings: <ul style="list-style-type: none"> ▼ employed by the network operator ▼ employed by an <i>associated entity</i> of the network operator, and ▼ employed by an entity that provides the services of the person exclusively to the network operator on an <i>ongoing basis</i>.
EG3	A - the total number of hours worked during the relevant period by all <i>part time employees of the network operator</i>	The total number of hours worked during the relevant 3-month period, by all <i>part time employees</i> . Provide data under the following headings: <ul style="list-style-type: none"> ▼ employed by the network operator ▼ employed by an <i>associated entity</i> of the network operator, and ▼ employed by an entity that provides the services of the person exclusively to the network operator on an <i>ongoing basis</i>.
EG4	B - the average number of hours worked during the relevant period by all <i>full time employees of the network operator</i>	The average number of hours worked during the relevant 3-month period, excluding overtime hours, by all <i>full time employees</i> . Provide data under the following headings: <ul style="list-style-type: none"> ▼ employed by the network operator ▼ employed by an <i>associated entity</i> of the network operator, and ▼ employed by an entity that provides the services of the person exclusively to the network operator on an <i>ongoing basis</i>.
EG5	New apprentices employed	The number of apprentices taken on during the current financial year as new employees of the network operator, and the total number of apprentices employed as at the end of the financial year (when reporting for the 4th quarter).

^a See additional notes below in section 1.2.2.

^b The 'relevant period' is defined in cl 23 of the Schedule, and is the relevant 3-month period commencing on 1 July, 1 October, 1 January or 1 April in each year.

^c The Schedule, cl 21(1).

Note: We may request more information from a network operator against any of these data.

2.2.2 Definitions

The definition of *employee of a network operator* contained in clause 20 and clauses 16, 17 and 18 of the Schedule applies for the purposes of reporting under this manual. The definitions of *full time employee* and *part time employee*, contained in clause 21(3) of the Schedule, also apply. We have provided the relevant clauses in Appendix A.

⁴ The Schedule, cl 15(1).

Note: Hours taken as leave without pay (LWOP) should not be included in the calculation of full time equivalent staff. This applies to the calculation of 'F', 'A' and 'B'. For instance, if a staff member normally employed as a full time employee worked or was on paid leave for 70% of the period as a full time employee, and was on leave without pay for the remaining 30%:

- ▼ in the calculation of 'F', they would be counted as 0.7 full time employees, and
- ▼ in the calculation of 'A', there is no inclusion of their hours since the employee is not considered a part time employee, and
- ▼ in the calculation of 'B', the hours they worked are included in the numerator and 0.7 would be included in the denominator.

When a person is engaged to replace an employee on LWOP, they may be included in the full time equivalent employee calculation, as consistent with clauses 20 and 21.

For the purposes of clause 20(1) of Schedule 4 to the Act, a person must meet two criteria in order to be an "employee of a network operator":

1. Firstly, the person must be employed by one of the three types of entity referred to in paragraphs (a)-(c) of clause 20(1).
2. Secondly, the work that the person carries out for that entity – as opposed to the work that the person carries out for all of their employers combined (if the person has more than one employer) – must be solely or primarily in connection with the business of the network operator.

associated entity is defined in clause 20(2) *Interpretation – employees of network operator* in the Schedule. It states an entity is an associated entity of a network operator if:

- the network operator has an ownership interest in the entity or the entity has an ownership interest in the network operator, or
- another entity has an ownership interest in both the entity and the network operator.

Note: For reporting purposes, IPART considers that an entity will be an associated entity of a network operator if:

1. the network operator owns a share, option, or other legal right by which it owns a part of the entity
 2. the entity owns a share, option, or other legal right by which it owns a part of the network operator
 3. a third entity owns shares, options, or other legal rights by which it owns a part of both:
 - the network operator, and
 - the entity.
- ▼ the expression *on an ongoing basis* means the services were provided or can reasonably be expected to be provided on a regular and systematic basis for a sequence of periods during a period of at least 12 months, and
 - ▼ the expression *primarily in connection with the business* means that, of the total hours the person in question spent working for the employer referred to in clause 20, greater than 50% were in connection with the business of the network operator. This should be calculated at the end of each relevant period for the time worked in that period.

2.3 Existing locations

Clause 9 of the Schedule requires that, for the duration for the Employment Guarantee period, the network operator must maintain an administrative office, depot or other administrative centre within the vicinity of an administrative location existing at the commencement of the Act, which is in the area of operations of its network.⁵

Table 2.2 outlines the reporting obligations related to section 9 of the Schedule. See below for definitions of some terms used in the Schedule.

Table 2.2 Quarterly data reporting requirements for location of administrative centres

Code	Name	Description
EG6	Changes to location of administrative office, depot or other administrative centre of the network operator	<ol style="list-style-type: none">1. The address of any existing administrative location^a which was closed in the relevant 3-month period.2. The address of any administrative office, depot, or other administrative centre <i>within the vicinity</i> of any existing administrative location reported or required to be reported under item 1 above.3. An estimate of the average travel time between the location referred to in item 1 above and the location referred to in item 2 above at the times that employees would normally travel between home and work.^b4. Detailed explanations of how the estimates referred to in item 3 above were calculated.5. The length in metres of the most practical and reasonable route between the location referred to in item 1 above and the location referred to in item 2 above.6. A statement setting out the business or other reasons why any existing administrative office, depot or other administrative centre was closed in the relevant 3-month period.

^a Existing administrative location has the meaning given by clause 9(2) of the Schedule.

^b See note in section 6.3.1.

Note: We may request more information from an authorised network operator against any of these data.

2.3.1 Definitions

For reporting purposes, IPART considers that *in the vicinity of* means 'within the area of'. IPART would consider all relevant matters, including travel time and distance, for the purposes of determining whether the other administrative office, depot or centre is within the vicinity of the *existing administrative location*.

As a guide, an administrative office, depot or centre which is within 45 minutes travel time from the *existing administrative location* would tend to be considered within the vicinity of the *existing administrative location*. However, where travel time is greater than 45 minutes, other considerations may also be relevant when applying the expression *in the vicinity*.

Note: travel time would be measured as the time of travel from the closed location to the nearest remaining open location at the times that employees would reasonably be expected to travel to work

⁵ The Schedule, cl 9.

from home, and vice versa at the times that employees would reasonably be expected to travel from work to home. In the first instance this would be driving time, but another transport mode, such as public transport, may also be considered where there is reasonable access to such transport between the two locations.

2.4 Disputes

The Schedule covers other areas of workplace relations, including salary, redundancies, leave entitlements, recognition of service, existing apprentices, relocation policies, enterprise agreements, superannuation, and disputes.⁶ These Employment Guarantees apply to *continuing employees*,⁷ and are enforceable by an affected employee or a person authorised to act on behalf of an affected employee or a majority of affected employees.⁸

IPART's role is to monitor compliance with the obligations of the network operators under the Schedule, and to enforce the obligations where a network operator has failed to comply.⁹

A dispute in relation to the subject matter of an Employment Guarantee (excluding clauses 3, 9 and 15) may be resolved in accordance with the *Fair Work Act 2009* (Cth) or any dispute resolution process applicable to the employee.¹⁰ We encourage use of the dispute resolution processes available at the Fair Work Commission, where it falls within the Commission's jurisdiction. When agreement is not reached by the parties through the conciliation and mediation processes offered, the Fair Work Commission may be required to arbitrate. IPART, however, remains the responsible body for compliance with the Employment Guarantees, and whilst we may consider the Fair Work Commission's deliberations, we will independently monitor and enforce the obligations of the Employment Guarantees.

Table 2.3 shows the reporting obligations related to other areas of workplace relations covered by the Schedule.

Table 2.3 Quarterly data reporting requirements for workplace relations disputes

Code	Name	Description
EG7	New workplace disputes over the relevant period	<p>Report on the number of new disputes taken to the Fair Work Ombudsman or the Fair Work Commission in the relevant 3-month period. Provide data under each of the following categories:</p> <ul style="list-style-type: none"> ▼ salary disputes involving an alleged breach of clause 2 of the Schedule, connected with the business of the network operator ▼ redundancy disputes involving an alleged breach of clause 4 and/or clause 5 of the Schedule, connected with the business of the network operator ▼ leave entitlement disputes involving an alleged breach of clause 6 of the Schedule, connected with the business of the network operator ▼ recognition of service disputes involving an alleged breach of clause 7 of the Schedule, connected with the business of the network operator ▼ relocation policy disputes involving an alleged breach of clause 10 of the Schedule, connected with the business of the network operator ▼ superannuation disputes involving an alleged breach of clause 12 of

⁶ The Schedule, cls 2, 4-7 and 10-14.

⁷ The Schedule, cl 23.

⁸ The Schedule, cl 8(2).

⁹ The Schedule, cl 8.

¹⁰ The Schedule, cl 13.

Code	Name	Description
		<p>the Schedule, connected with the business of the network operator, and</p> <ul style="list-style-type: none"> ▼ existing apprentice disputes involving an alleged breach of clause 14 of the Schedule, connected with the business of the network operator.
EG8	Workplace disputes resolved over the relevant period	<p>Report on the number of disputes resolved at the Fair Work Ombudsman or the Fair Work Commission in the relevant 3-month period. Provide data under each of the following categories:</p> <ul style="list-style-type: none"> ▼ salary disputes involving an alleged breach of clause 2 of the Schedule, connected with the business of the network operator ▼ redundancy disputes involving an alleged breach of clause 4 and/or clause 5 of the Schedule, connected with the business of the network operator ▼ leave entitlement disputes involving an alleged breach of clause 6 of the Schedule, connected with the business of the network operator ▼ recognition of service disputes involving an alleged breach of clause 7 of the Schedule, connected with the business of the network operator ▼ relocation policy disputes involving an alleged breach of clause 10 of the Schedule, connected with the business of the network operator ▼ superannuation disputes involving an alleged breach of clause 12 of the Schedule, connected with the business of the network operator, and ▼ existing apprentice disputes involving an alleged breach of clause 14 of the Schedule, connected with the business of the network operator.
EG9	Workplace disputes ongoing at end of period	<p>Report on the number of disputes ongoing at the Fair Work Ombudsman or the Fair Work Commission in the relevant 3-month period. Provide data under each of the following categories:</p> <ul style="list-style-type: none"> ▼ salary disputes involving an alleged breach of clause 2 of the Schedule, connected with the business of the network operator ▼ redundancy disputes involving an alleged breach of clause 4 and/or clause 5 of the Schedule, connected with the business of the network operator ▼ leave entitlement disputes involving an alleged breach of clause 6 of the Schedule, connected with the business of the network operator ▼ recognition of service disputes involving an alleged breach of clause 7 of the Schedule, connected with the business of the network operator ▼ existing apprentice disputes involving an alleged breach of clause 14 of the Schedule, connected with the business of the network operator ▼ relocation policy disputes involving an alleged breach of clause 10 of the Schedule, connected with the business of the network operator, and ▼ superannuation disputes involving an alleged breach of clause 12 of the Schedule, connected with the business of the network operator.

Note: We may request more information from a network operator against any of these data.



Appendices



A Description of employee of a network operator

Schedule 4 of the *Electricity Network Assets (Authorised Transactions) Act 2015* describes an employee in clauses 16, 17 and 18 as follows:

16 Cadets, trainees and graduate engineers

A person employed as a cadet, trainee or graduate engineer is an employee for the purposes of this Schedule (including for the purposes of employee guarantees under this Schedule).

17 Fixed term employees

- (1) A fixed term employee is an employee for the purposes of this Schedule (including for the purposes of employee guarantees under this Schedule).
- (2) In this clause, **fixed term employee** means an employee whose terms and conditions of employment are provided by an individual contract that provides for a fixed term of employment and not by an award, agreement or other industrial instrument (under a law of the State or the Commonwealth) that provides for the terms and conditions of employment of employees.

18 Contract employees

- (1) A contract employee is an employee for the purposes of this Schedule (including for the purposes of employee guarantees under this Schedule).
- (2) In this clause, **contract employee** means an employee whose terms and conditions of employment are provided by an individual contract and not by an award, agreement or other industrial instrument (under a law of the State or the Commonwealth) that provides for the terms and conditions of employment of employees.

An employee of a network operator is further described in clause 20, as follows:

20 Interpretation—employees of network operator

- (1) A person is an employee of a network operator for the purposes of this Schedule if the person carries out work solely or primarily in connection with the business of the network operator and is employed by:
 - (a) the network operator, or
 - (b) an associated entity of the network operator, or
 - (c) an entity that provides the services of the person exclusively to the network operator on an ongoing basis.

B Quarterly compliance reporting template for Employment Guarantees

Annual Compliance Report for 20 -
Submitted by [name] ACN:

To: The Chief Executive Officer
Independent Pricing and Regulatory Tribunal of NSW
PO Box K35
Haymarket Post Shop
NSW 1240

[Name] reports as follows:

1. This report documents compliance during [period] with all obligations to which [name] is subject to under Schedule 4 of the *Electricity Network Assets (Authorised Transactions) Act 2015*.
2. This report has been prepared by [name] with all due care and skill in full knowledge of conditions to which it is subject and in compliance with IPART's *Electricity network reporting manual – Employment guarantees*.
3. This report provides information on all obligations with which [name] did not fully comply during [period].
4. This compliance report has been approved by the Chief Executive Officer (or equivalent) of [name] and [date].

Signed: Signed:

Name: Name:

Designation:..... Designation:

This template provides the base level of information required by IPART, the electricity network operator should add any information or commentary as they see fit to supplement this base information. We may request more information from an electricity network operator against any of these data.

B.1 Employment Guarantees

Table 1 Data on employee numbers

Code	Name, description	Network operators results
EG1	Full time equivalent employees.	
EG5	New apprentices employed (when reporting for the 4th quarter only).	

Table 2 Inputs to full time equivalent employees

Code	Description	Employed by			Total
		The network operator	An associated entity of the network operator	Another entity that provides the services to the network operator ^a	
EG2	F - the average number of full time employees of the network operator during the relevant period				
EG3	A - the total number of hours worked during the relevant period by all part time employees of the network operator				
EG4	B - the average number of hours worked during the relevant period by all full time employees of the network operator ^b				

^a An entity that provides the services of the person *exclusively* to the network operator on an *ongoing basis*.

^b The total column for this requirement should be an average of the hours worked by all full time employees during the period. I.e, it would be a weighted average of the numbers in the other columns.

[add commentary as necessary]

B.2 Existing locations

Table 3 Details on changes to location of administrative office, depot or other administrative centre of the network operator

Code	Description
EG6(1)	The address of any existing administrative location which was closed in the relevant 3-month period.
Network operator response	
EG6(2)	The address of any administrative office, depot, or other administrative centre within the vicinity of any existing administrative location reported or required to be reported under item 1 above.
Network operator response	
EG6(3)	An estimate of the average travel time between the location referred to in item 1 above and the location referred to in item 2 above at the times that employees would normally travel between home and work.
Network operator response	
EG6(4)	Detailed explanations of how the estimates referred to in item 3 above were calculated.
Network operator response	
EG6(5)	The length in metres of the most practical and reasonable route between the location referred to in item 1 above and the location referred to in item 2 above.
Network operator response	
EG6(6)	A statement setting out the business or other reasons why any existing administrative office, depot or other administrative centre was closed in the relevant 3-month period.
Network operator response	

[add commentary as necessary]

B.3 Disputes

Table 4 Quarterly data reporting requirements for workplace relations disputes

Dispute area	EG7 - New workplace dispute (Number)	EG8 - Resolved workplace disputes (Number)	EG9 – on-going disputes at the Fair Work Ombudsman or the Fair Work Commission (Number)
Salary			
Redundancy			
Leave entitlement			
Recognition of service			
Relocation policy			
Superannuation			
Existing apprentice			

[add commentary as necessary]